



WESTERN
PACIFIC
REGIONAL
FISHERY
MANAGEMENT
COUNCIL

MEMORANDUM

June 4, 2021

TO: Interested Parties
FROM: Kitty M. Simonds

SUBJECT: Summary of Action Items for the 186th Meeting of the Western Pacific Regional Fishery Management Council

- 1. Regulatory Amendment: Gear and Release Requirements to Improve Post-Hooking Survivorship of Oceanic Whitetip Sharks in the Longline Fisheries**
- 2. 2022 US Territorial Bigeye Tuna Catch/Effort Limit & Allocation Specifications**
- 3. Multi-Year US Territory Longline Bigeye Catch & Allocation Limits**
- 4. American Samoa Bottomfish Management Unit Species Rebuilding Plan**
- 5. American Samoa Marine Conservation Plan**
- 6. Guam Bottomfish Management Unit Species Rebuilding Plan**
- 7. Standardized Bycatch Reporting Methodology & FEP Amendments for Updating Consistency**
- 8. Main Hawaiian Island Deep 7 Bottomfish Annual Catch Limits for Fishing Years 2021-23**

The 186th meeting of the Western Pacific Regional Fishery Management Council will convene June 22-24, 2021, by web conference (WebEx) with host sites at the following locations:

- Tedi of Samoa Building, Suite 208B, Fagatogo Village, American Samoa
- Cliff Pointe, 304 W. O'Brien Drive, Hagatña, Guam
- BRI Building, Suite 205, Kopa Di Oru St. Garapan, Saipan, CNMI

The WebEx link is <https://tinyurl.com/186CouncilMtg> (if prompted, enter event number: 133 181 5362; password: CM186mtg).

The Council will consider and may take action on the issues summarized below, including any public comments on them. Written public comments on final action items should be received by the Council's executive director by 5 p.m. (HST), Friday, June 18, 2021, by postal mail, fax or email as indicated below.

Instructions for connecting to the WebEx and providing oral public comments during the meeting will be posted on the Council website at <https://www.wpcouncil.org/event/186th-council-virtual-meeting/>.

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Summary of Action Items at the 186th Council Meeting

1. Regulatory Amendment: Gear and Release Requirements to Improve Post-Hooking Survivorship of Oceanic Whitetip Sharks in the Longline Fisheries (Final Action)

Most vessels in the Hawaii deep-set longline fishery use steel trace wire leaders in the terminal portion of the branch line between the hook and the weighted swivel to reduce the risk of crew injuries resulting from the flyback of weighted branch lines. Wire leaders also make it difficult to remove the terminal portion of the branch line from sharks or other protected species that cannot be brought on board. Longer trailing gear left on sharks and sea turtles have been shown to reduce post-hooking survivorship. Monofilament nylon leaders may facilitate early release of sharks and improve post-hooking survivorship if they sever the line and escape.

In an effort to reduce impacts to Endangered Species Act-listed oceanic whitetip sharks and other protected species, the Hawaii Longline Association (HLA) announced at the 184th Council meeting in December 2020 that their member vessels will voluntarily eliminate the use of wire leaders by July 1, 2021, and use monofilament nylon leaders or other similar materials in its place. HLA also announced that it will focus on crew safety and work with vessel owners, captains and crew to utilize best practices, including deploying flyback prevention devices and branch line weight configurations and materials that would minimize flyback. In addition, HLA committed to work with the National Marine Fisheries Service and the Council to lead captain and crew training on how to properly implement handling protocols.

The Council is considering a regulatory amendment to the Pacific Pelagic Fishery Ecosystem Plan (FEP) to prohibit the use of wire leaders to improve post-hooking survivorship of oceanic whitetip sharks and potentially other protected species. The Council at the 185th meeting in March 2021 selected the prohibition of wire leaders in the Hawaii deep-set fishery as a preliminary preferred alternative, and additionally recommended developing a regulatory requirement to remove trailing gear from oceanic whitetip sharks as part of the alternative.

The Council at its 186th meeting will consider taking final action on these gear and release requirements. The Council will consider whether the requirement to remove trailing gear would be applicable only to the Hawaii deep-set longline fishery, or to all Western Pacific pelagic longline fisheries operating under the Pelagic FEP (including Hawaii shallow-set and American Samoa longline fisheries, as well as any longline vessels that may operate under the Western Pacific general longline permit).

The Council will consider the following alternatives:

- 1) No Action/Status Quo
- 2) Prohibit wire leaders in the Hawaii deep-set longline fishery and require removal or trailing gear from oceanic whitetip sharks (*preliminary preferred alternative*)
 - i. *Sub-Alternative A*: Require removal of trailing gear only in the Hawaii deep-set longline fishery
 - ii. *Sub-Alternative B*: Require removal of trailing gear in all Western Pacific pelagic longline fisheries operating under the Pelagic FEP
- 3) Prohibit wire leaders in all Western Pacific pelagic longline fisheries and require removal or trailing gear from oceanic whitetip sharks

2. 2022 US Territorial Bigeye Tuna Catch/Effort Limit & Allocation Specifications (Final Action)

Bigeye tuna comprises a Pacific-wide population that is internationally managed and assessed as separate stocks in the Western and Central Pacific Ocean (WCPO) and Eastern Pacific Ocean by the Western and Central Pacific Fisheries Commission (WCPFC) and the Inter-American Tropical Tuna Commission, respectively. The most recent stock assessment conducted in 2020 for the WCPO indicate the bigeye tuna stock is not subject to overfishing, nor overfished.

The WCPFC, of which the United States is a member, develops and agrees on conservation and management measures (CMMs) for highly migratory species caught by fisheries (longline and purse seine) and flag states in the WCPO. In December 2018, the WCPFC agreed on CMM 2018-01, which maintains the 2016 longline bigeye limits of six countries, including the United States, which has a limit of 3,554 metric tons (mt). This measure was renewed as CMM 2020-01 in December 2020. CMM 2020-01, like earlier conservation measures, does not establish an individual limit on the amount of bigeye tuna that may be harvested annually in the Convention Area by Small Island Developing States and Participating Territories, including American Samoa, Guam and the Commonwealth of the Northern Mariana Islands (CNMI). CMM 2020-01 will expire at the end of 2021, with a possibility of new catch limits for fishery sectors and flag states under the WCPFC. The WCPFC may also decide to resume current catch limits for flag states and participating members through 2022.

Amendment 7 to the Council's Pelagic FEP established a management framework that provides catch or effort limits applicable to the U.S. Participating Territories that includes the authority of the territories to use, assign, allocate and manage the pelagic management species catch and effort limits agreed to by the WCPFC through specified fishing agreements with U.S. vessels permitted under the Pelagic FEP for the purposes of responsible fisheries development.

For 2019, the Council's specifications limited each U.S. Participating Territory's bigeye longline catch to 2,000 mt and its allocation limit with U.S.-flagged vessels to up to 1,000 mt. However, only two agreements were made with U.S.-flagged vessels and the fishery closed before the end of the fishing season on Dec. 28, 2019. For fishing years 2020 and 2021, the Council took action at its 181st and 182nd meeting in March and June 2020 to specify bigeye longline catch and allocation limits up to 2,000 mt for each territory, with total allocations from all U.S. Participating Territories not to exceed 3,000 mt. The 2020 specification let U.S.-flagged vessels remain operational through 2020 and the 2021 specification went to final rule in January 2021.

At its 186nd meeting, the Council will consider taking final action on the specification of the 2022 territory bigeye longline limits for American Samoa, Guam and the CNMI. The Council will also consider limits on the amount of catch that could be transferred under specified fishing agreements by the U.S. Participating Territories to vessels permitted under the Pelagic FEP.

The Council will consider the following limit options for 2022:

- 1) No management action: No specification of catch or allocation limits;
- 2) Status quo: Specify a 2,000-mt catch limit for each U.S. Participating Territory, with allocation limits that do not collectively exceed 3,000 mt among all territories, as was taken for fishing years 2020 and 2021;

- 3) Specify a 2,000-mt catch limit and up to a 2,000-mt allocation limit for each U.S. Participating Territory (see options below):
 - a. 2,000 mt allocation for Guam and CNMI and 1,500 mt allocation for American Samoa;
 - b. 1,500 mt allocation per U.S. Participating Territory; or
 - c. 1,500 mt allocation for Guam and the CNMI and 1,000 mt for American Samoa;
- 4) Other total and allocation limit combinations.

3. Multi-Year US Territory Longline Bigeye Catch & Allocation Limits (Initial Action)

In 2014, Amendment 7 to the Council's Pelagic FEP was approved and implemented (50 CFR 665.819). It established the territorial catch/effort and allocation limit measure that provides the National Marine Fisheries Service (NMFS) with authority to:

- Specify annual catch or effort limits for a U.S. Participating Territory, as recommended by the Council, not to exceed any WCPFC-adopted limits.
- Specify a limit recommended by the Council authorizing a U.S. Participating Territory to allocate a portion of that specified catch or effort limit to eligible U.S. vessels through a specified fishing agreement.
- Review and approve specified fishing agreements for consistency with the Pelagic FEP and other applicable laws.

Amendment 7 also established a territorial longline bigeye tuna catch limit of 2,000 mt for each territory, and an allocation limit of 1,000 mt for each territory.

At its 178th meeting in June 2019, the Council took final action to modify the territorial catch/effort and allocation limit measure and specify multi-year catch/effort and allocation limits for U.S. Participating Territories. This would amend the Pelagic FEP to remove the requirement to establish separate total catch or effort limits for the U.S. Participating Territories in order to establish an allocation limit, and also would allow multi-year limits. The Council would annually review any established limits to determine whether the best available scientific information or the needs of fishing communities warrant modifying or rescinding such limits. The Council had recommended removing catch limits for the U.S. Participating Territories and establishing allocation limits for 1,500 mt per territory, based on the marginal impact on the bigeye stock. This action was delayed due to administrative prioritization, among other reasons.

At its 186th meeting, the Council will consider revisiting the multi-year framework, also recommending territorial bigeye tuna catch and/or allocation limits to take effect beginning no earlier than 2022, given the Council's recommended modification of the territorial catch, effort and allocation limit measure. The Council will consider the following options, specifically for WCPO bigeye tuna:

- 1) No catch or allocation limits (no action);
- 2) 2,000 mt catch limit and up to 2,000 mt allocation limits; or
- 3) No catch limit and up to 2,000 mt allocation limits.

The Council will also consider the fishing years in which the limits will take effect or expire and the scope of the framework with respect to applicable pelagic management unit species. The Council may make these considerations, accounting for the requirement for annual review, availability of new scientific information and potential for multi-year limits.

4. American Samoa Bottomfish Management Unit Species Rebuilding Plan (Final Action)

In February 2020, NMFS informed the Council about the change in stock status for the American Samoa bottomfish management unit species complex from not overfished and not subject to overfishing to overfished and subject to overfishing. The Magnuson-Stevens Fishery Conservation and Management Act (MSA) and National Standard 1 requires the Council to develop a rebuilding plan and submit the amendment package within 15 months from notification. This is the first rebuilding plan for the Western Pacific Region. For one year, the Council has worked with NMFS and the territory of American Samoa to develop a rebuilding plan to comply with MSA section 304(e)(3) and implementing regulations at 50 CFR 600.310(j)(2). An interim catch limit was implemented in the American Samoa bottomfish fishery through an interim measure emergency rule making to curb the impact of the change in stock status and sudden drop in the annual catch limit (ACL) (85 FR 73003, Nov. 16, 2020). This level of catch is 13,000 pounds, with the possibility of extension if this is not reached.

The biomass projection is now based on the most recent catch data in the American Samoa Annual Stock Assessment Fishery Evaluation (SAFE) Report. The catch for 2020 was below the interim catch limit and was no longer estimated using the January 2021 projection.

The Council at its 186th meeting will consider taking final action on the American Samoa Rebuilding Plan and will consider the following alternatives:

- 1) Status quo – continue to utilize an ACL of 13,000 pounds with an in-season accountability measure (AM).
- 2) Implement an ACL of 1,500 pounds with an in-season AM and higher performance standard that would close the federal waters until measures are in place to control the additional source of fishing mortality. If the total catch is maintained below this level, the bottomfish stock will be rebuilt in 9 years.
- 3) Apply a temporary moratorium on bottomfish fishing in federal waters. If the territory is able to apply a similar moratorium in territorial waters, the bottomfish stock will be rebuilt in 8 years.

In the development of the Environmental Assessment, a new alternative started to emerge that could provide the highest level of catch that allows the stock to rebuild to biomass at MSY within ten years and still prevent overfishing. This level of catch is at 5,000 pound which would rebuild the stock in ten years with a risk of overfishing level of 26 percent. The Council may decide to add this as an alternative to increase consideration of cultural fishing and economic benefit for underserved communities in the territory.

5. American Samoa Marine Conservation Plan (Action Item)

The Marine Conservation Plan (MCP) for American Samoa expires in 2021. At its 186th meeting, the Council will review the MCP for concurrence on approval. After review by the Council, the MCP is transmitted to the U.S. Secretary of Commerce for approval.

Section 204(e) of the MSA authorizes the U.S. Secretary of State, with the concurrence of the U.S. Secretary of Commerce and in consultation with the Council, to negotiate and enter into a Pacific Insular Area Fishery Agreement (PIAFA). A PIAFA would allow foreign fishing within the 200-mile U.S. exclusive economic zone (EEZ) adjacent to American Samoa, the CNMI, Guam or the Pacific Remote Island Areas with the concurrence of, and in consultation with, the applicable governors. According to the MSA, before entering into a PIAFA, the

appropriate governor, with the concurrence of the Council, must develop a three-year MCP providing details on uses for any funds collected by the Secretary of Commerce under the agreement.

In addition to PIAFA funds, the MSA provides that fines and penalties of violations by foreign vessels occurring within the EEZ around the Pacific Insular Areas, including sums collected from forfeiture and disposition or sale of property seized by the federal government, are to be deposited into the applicable local government's treasury and used to implement the respective MCP. Also authorized by the MSA is the Western Pacific Sustainable Fisheries Fund, which allows the Council to use funds to implement projects listed in the MCPs.

The MSA requires that the MCPs be consistent with the Council's FEPs. The MSA also requires that the MCP include, but not be limited to, the following conservation and management objectives:

- I. Pacific Insular Area observer programs, or other monitoring programs, that the Secretary of Commerce determines are adequate to monitor the harvest, bycatch and compliance with the laws of the United States by foreign fishing vessels that fish under PIAFAs;
- II. Conduct of marine and fisheries research, including development of systems for information collection, analysis, evaluation and reporting;
- III. Conservation, education and enforcement activities related to marine and coastal management, such as living marine resource assessments, habitat monitoring and coastal studies;
- IV. Education and training in the development and implementation of sustainable marine resources development projects, scientific research and conservation strategies; and
- V. Western Pacific community-based demonstration projects under section 112(b) of the Sustainable Fisheries Act and other coastal improvement projects to foster and promote the management, conservation, and economic enhancement of the Pacific Insular Areas.

If approved by the Council and Secretary of Commerce, the MCP is valid for a period of three years; however, an MCP can be modified at any time and resubmitted for approval.

6. Guam Bottomfish Management Unit Species Rebuilding Plan (Final Action)

In February 2020, NMFS informed the Council about the change in stock status for the Guam bottomfish management unit species complex from not overfished and not subject to overfishing to overfished. MSA and National Standard 1 requires the Council to develop a rebuilding plan and submit the amendment package within 15 months of notification. This is the first rebuilding plan for the Western Pacific Region. For one year, the Council has worked with NMFS and Guam to develop a rebuilding plan to comply with MSA section 304(e)(3) and implementing regulations at 50 CFR 600.310(j)(2). An ACL was implemented for fishing years 2020 to 2022 to prevent overfishing (86 FR 24511, May 7, 2021). The ACL for this period is 27,000 pounds.

The biomass projection is now based on the most recent catch data in the Marianas Annual SAFE Report. The catch for 2020 was below the ACL and was no longer estimated using the January 2021 projection. The most recent projections made the 31,000-pound ACL a viable option once more.

The Council at its 186th meeting will consider taking final action on the Guam Rebuilding Plan, and will consider the following alternatives:

- 1) Status quo – continue to utilize an ACL of 27,000 pounds with an in-season AM.
- 2) Implement an ACL of 27,000 pounds, an in-season AM and a higher performance standard. If the total catch is maintained below this level, the bottomfish stock will be rebuilt in 5 years.
- 3) Implement an ACL of 16,299 pounds, an in-season AM and a higher performance standard. If the total catch is maintained below this level, the bottomfish stock will be rebuilt in 3 years.
- 4) Implement an ACL of 31,000 pounds, an in-season AM and a higher performance standard. If the total catch is maintained below this level, the bottomfish stock will be rebuilt in 8 years.
- 5) Apply a temporary moratorium on bottomfish fishing in federal waters. If the territory is able to apply a similar moratorium in territorial waters, the bottomfish stock will be rebuilt in 2 years.

In the development of the Environmental Assessment, a new alternative started to emerge that could provide the highest level of catch that allows the stock to rebuild to biomass at MSY within ten years and still prevent overfishing. This level of catch is at 31,500 pound which would rebuild the stock in ten years with a risk of overfishing level of 40 percent. The Council may decide to add this as an alternative to increase consideration of cultural fishing and economic benefit for underserved communities in the territory.

7. Standardized Bycatch Reporting Methodology & FEP Amendments for Updating Consistency (Initial Action)

In 2017, NMFS published a final rule providing guidance on the requirement of the MSA that all fishery management plans (FMPs), with respect to any fishery, establish a standardized bycatch reporting methodology (SBRM) to assess the amount and type of bycatch occurring in a fishery. The final rule establishes requirements and provides guidance to regional fishery management councils and the U.S. Secretary of Commerce regarding the development, documentation and review of such methodologies, and requires that all FMPs be consistent with the new guidance by February 2022.

Council staff, in coordination with NMFS, conducted a review of the Council's five FEPs for consistency with the new guidance. At the 186th meeting, the Council will review the outcomes of the consistency review and will consider whether any amendment is needed to update the existing SBRMs to comply with the 2017 guidance.

8. Main Hawaiian Islands Deep 7 Bottomfish Annual Catch Limits for FY 2021-23 (Final Action)

In March 2021, NMFS presented the stock assessment update for the main Hawaiian Islands deep 7 bottomfish fishery with catch projections to 2025. There were no new data incorporated in the assessment update, therefore the scientific uncertainties did not change. Therefore, at its 139th meeting, the Council's Scientific and Statistical Committee retained the 42% risk of overfishing as the acceptable biological catch. At its 185th meeting, the Council took initial action to retain the current ACL of 492,000 pounds, corresponding to a 39-40% risk of overfishing per fishing year based on the best scientific information available. An in-season tracking of catch will be done using the trip reports and will be compared to the ACL. If the ACL

is projected to be reached, the federal waters will close to bottomfishing, while the State of Hawaii will prohibit the commercial sale of deep 7 bottomfish. At its 186th meeting, the Council will review the draft environmental assessment and will consider taking final action on the ACL specification.